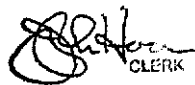


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 CLERK

UNITED STATES DISTRICT COURT
 DISTRICT OF SOUTH DAKOTA
 SOUTHERN DIVISION

	*	CIV 04-4143
ZOO II MUSIC, et al.	*	
	*	
Plaintiffs,	*	MEMORANDUM OPINION
v.	*	AND ORDER
	*	
L A RADIO, INC., L A COMMUNIQUE,	*	
INC., ans LEE O. AXDAHL,	*	
	*	
Defendants.	*	

The plaintiffs made application for an Entry of Default against the defendants; L A Radio, Inc., L A Communique, Inc., and Lee O. Axdahl, pursuant to Federal Rule of Civil Procedure 55(a). Doc. 18. The Clerk filed Entry of Default in favor of the plaintiffs and against the defendants; L A Radio, Inc., L A Communique, Inc., and Lee O. Axdahl, pursuant to rule 55(a) of the Federal Rules of Civil Procedure. Doc. 20. After the filing of the Clerk's Entry of Default Judgment, Plaintiffs moved for default judgment pursuant to Federal Rule of Civil Procedure 55(d) requesting judgment in the total amount of \$120,000.00. Plaintiffs further requested reasonable costs and attorney's fees. Doc. 21. Plaintiffs submitted a memorandum in support of their motion for default judgment. Doc. 22. The request for attorney fees was supported by the affidavit of Eric C. Schulte stating that his law firm had billed approximately \$4,000.00 in connection with the above-entitled action. Doc. 23. Plaintiffs also submitted the affidavit of Hugo Del Bove, the Radio Accounts Manager of the American Society of Composers, Authors and Publishers, opining that damages of \$5,000.00 per copyright violation, or a total of \$120,000 in damages is an appropriate amount for statutory damages in this case. Doc. 24. None of the Defendants responded to the motion for default judgment.

Counsel for the Plaintiffs, in correspondence to the Court dated October 27, 2005, advised the Court that Defendant Lee O. Axdahl had filed for bankruptcy and counsel attached the Notice of Chapter 7 Bankruptcy. Counsel requested that the Court still consider the motion for default judgment against Defendant L A Radio, Inc., an L A Communique, Inc., and asked if it was necessary for Plaintiffs to amend their motion for default judgment or other pleadings in any fashion. The Court has directed that the October 27, 2005, correspondence and attachment be filed with the

clerk.


The Court has further determined that Plaintiffs should make a showing by pleadings that they are entitled to default judgment against the defendants who are not subject to the bankruptcy automatic stay. The Court, after considering all relevant pleadings and law, has concluded that appropriate damages would be \$3,000 per copyright violation, or total damages of \$72,000. The Court has further concluded that Plaintiffs are entitled to attorney fees in the amount of \$4,000.00 and costs. Accordingly,

IT IS ORDERED:

1. That Plaintiffs make a showing by pleadings that they are entitled to default judgment against the defendants who are not subject to the bankruptcy automatic stay.
2. That at the time Plaintiffs make the above showing, Plaintiffs file a proposed judgment in accordance with this memorandum opinion and order.

Dated this 11th day of November, 2005.

BY THE COURT:


Lawrence L. Piersol
Chief Judge

ATTEST:

JOSEPH HAAS, CLERK

BY: Shelly Margalies
(SEAL) DEPUTY